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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in the territory of the former Yugoslavia

Eighth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 37 of Commission resolution 1994/72 of 9 March 1994

Introduction

1. From 17 to 31 July 1994 the Special Rapporteur conducted a mission to Bosnia and Herzegovina and to The Former Yugoslav Republic of Macedonia. He also visited Zagreb where he met with the Special Representative of the Secretary-General for the former Yugoslavia, Mr. Akashi, and high officials of UNPROFOR including the Force Commander, General de la Presle, and Mr. Viera de Mello, head of Civil Affairs.

2. In central Bosnia the Special Rapporteur visited Sarajevo, Kiseljak, Rotilj, Vitez, Stari Vitez, Gorni Vakuf, Travnik, Visoko and Bugojno. In southern Bosnia and Herzegovina he visited Mostar and Medugorje. He also visited both sides of the internal confrontation line in the Bihac region. Meetings were conducted with the President of the Republic of Bosnia and Herzegovina, Mr. Izetbegovic, the Prime Minister, Mr. Silajdic, and various members of the Government including the Ministers for Refugees and Education. Throughout his mission meetings were held with heads of city and local authorities, religious leaders, representatives of non-governmental organizations including representative associations, military author.ties and local residents. Briefings were also provided by representatives of international organizations active in the areas visited, and meetings were conducted with the Coordinator of the Reconstruction Project for Sarajevo, Mr. Eagleton, and the European Union Administrator for Mostar, Mr. Koshnic.

3. In due course the Special Rapporteur will issue a detailed report including, inter alia, full details of his mission findings and information about the human rights situation in other areas not covered by this mission. The present report contains his principal and immediate conclusions and draws attention to matters requiring the urgent attention of all parties in the territories and the international community.

Central Bosnia and the Mostar area

4. The Special Rapporteur welcomes the establishment of the Federation of Bosnia and Herzegovina and the successful implementation of a cease-fire between the forces of the Government and the Bosnian Croat HVO. These developments have created an environment in which can begin the work of creating a regime of respect for fundamental human rights. It is clear, however, that both the establishment of the Federation and the maintenance of the cease-fire are somewhat insecure. In particular, there can be observed a determination at high political levels to persevere but frequent unwillingness at the local level to make progress in reintegrating the two divided communities. Accordingly, real progress will take both time and great commitment. It will be necessary to implement fully and speedily the Federation agreement and Constitution, including its extensive human rights provisions. Also required will be substantial and continuing international assistance by means of material help, advisory and technical assistance, and provision of personnel to assist in the work of conciliation, arbitration and reconciliation. Finally, authorities will require considerable assistance in developing institutions common to both Muslims and Bosnian Croats, such as joint police forces, an integrated army and a unified system of administration of justice.

5. The problems of implementation of the Federation structure present themselves in myriad guises and the Special Rapporteur identified at least three of these during his mission. The first is that which arises in situations where a tiny enclave of people of one ethnic or religious origin is entirely surrounded by an area populated by members of another such group. The second occurs in towns and villages which have been bitterly fought over and are now divided between government and Bosnian Croat authorities. The third problem occurs in situations where small numbers of members of one group are attempting to survive whilst living in localities where they are numerically far inferior to members of another religious or ethnic group.

6. The problem of tiny and surrounded enclaves is well illustrated by the situations of Rotilj and Stari Vitez. Rotilj is a small village near Kiseljak, primarily inhabited by Muslims but in an area with a largely Bosnian Croat population. Stari Vitez, within the town of Vitez, is in a similar situation, though much more badly war-damaged. Residents of both enclaves spoke to the Special Rapporteur of their continued fear and sense of insecurity. It is clear that they remain subject to discrimination and unequal treatment. Either because of fear (Rotilj) or regulation (Stari Vitez), they are not yet free to move outside their enclaves. In both cases there is a lack of willingness on the part of leaders of the majority population to make real progress in creating a climate of trust and reconciliation.

7. The situation in Gorni Vakuf is indicative of the problem of divided towns. Fighting between Bosnian Croats and government forces led to the establishment of a confrontation line in the centre of the town and terrible damage was done to buildings and urban services. There are now two entirely separate municipal administrations, which have little to do with each other. Also, very severe restrictions control movement of people from one part to the other. The Special Rapporteur observes that such municipal situations are unworkable in the long term and that reintegration offers the only hope of viable municipal life in terms of urban infrastructure, economics and respect for the human rights of inhabitants.

8. Croats living in Bugojno experience the plight of a numerically small minority living in the midst of another religious or ethnic group. They feel a strong sense of exclusion from the local decision-making processes. Also, local authorities have so far refused to allow those members of the Croat communities who had earlier left to return home. The reason given for the refusal, as in very many other locations in the area visited by the Special Rapporteur, is the insistence on reciprocal arrangements. Thus, in Bugojno,

local authorities insist that Croats may only return once Muslims are allowed to return to the town of Prozor, which is under Bosnian Croat control.

9. Again and again the Special Rapporteur has observed that the effort of reconciliation in the Federation area is dependent on locally negotiated and implemented agreements. These are shaped and constrained not only by the persistent demands for reciprocal arrangements but also by the scale of the problem of refugees and displaced persons and the deeply-held prejudices of many Muslims and Bosnian Croats alike.

10. The Special Rapporteur has observed three approaches to the issue of return of refugees and displaced persons. First, there is the insistence by some that the problem can only be addressed on a comprehensive basis addressing at once the situation throughout Bosnia and Herzegovina (and elsewhere, including Croatia and Serbia). Others believe that local initiatives are useful, but must be reciprocal. There are also proponents of immediate ad hoc and unregulated return. The Special Rapporteur believes that the issue of return can already receive attention even though the conditions are not in place for a comprehensive programme for the entire country. Accordingly, he believes that local initiatives are to be encouraged but that the reciprocity demands are inappropriate. He has repeatedly urged local authorities to be willing to take the first step towards return without waiting for agreement of reciprocal arrangements. In this way he believes that the "vicious circle" of waiting for gestures from the other side can be broken and real progress can be made. Of course, the Special Rapporteur does not encourage entirely unregulated return and acknowledges that return needs to be well prepared and carried out in a manner which does justice to all people affected.

11. Throughout the region it can be observed that the building of mutual trust is seriously hampered by the sense that war criminals are still at large and appear to enjoy impunity. Indeed, in some instances alleged war criminals have been given positions of local civil or military authority. The activities to date of the International Criminal Tribunal for the Former Yugoslavia have done little to change this situation. The Tribunal is perceived as remote and irrelevant. Indeed, its slowness in commencing the investigation and prosecution process and the lack of knowledge of its activities have gravely compromised its credibility in local eyes. The Special Rapporteur urges that the Tribunal move quickly to gain local trust by deploying investigators, commencing prosecutions and establishing an effective information flow to and from the region. Furthermore, it is necessary for the international community to assist in the re-establishment of the local system of administration of justice. The time has also come for the deployment in the Federation area of a broad-based and well-resourced international human rights monitoring mission. Consideration might also usefully be given to the enlargement of the UNPROFOR civilian police component.

12. The prevalence of mines in central Bosnia and elsewhere poses a very great problem. There are very many minefields scattered throughout the area and especially near old confrontation lines. These continue to claim the lives of locals and of international staff. Also, they greatly inhibit the restoration of agriculture, the rehabilitation of damaged properties and the implementation of development projects such as improvement of the road network. The problem of mines is compounded by the fact that few maps exist to pinpoint their positioning. The Government will require considerable international help in addressing this problem in the coming years.

Sarajevo

13. The Special Rapporteur observes a considerable amelioration in the situation of the people in the area of Sarajevo under the control of the Government. With the diminution of attacks and the restoration of elements of a market economy, living conditions have improved considerably. However, lack of freedom of movement in and out of the city, together with a lack of employment and earning opportunities, contribute to an ongoing lack of hope and

confidence. Among young people in particular there would appear to be a sense of despair as to the possibility of lasting improvements. The work being carried out in pursuance of the terms of Security Council resolution 900 (1994) will do much to improve this situation and the Special Rapporteur both endorses the initiative and assures the Coordinator of his full support. However, it is important that the reconstruction work be properly funded by the international community and that it be implemented as part of a programmed response to the reconstruction needs of the entire country. Furthermore, he remains concerned to ensure that the project gives priority consideration to human rights-related issues which arise in its implementation. The Special Rapporteur observes that although the international community failed to prevent or quickly stop the war in Bosnia and Herzegovina, it can play a vital role in re-establishing the conditions necessary for a functioning civil society.

Mostar

14. The centre of Mostar has been devastated by the fighting between Bosnian Croats and Muslims and the attacks of the Bosnian Serb forces. Damage is not confined to the physical structures and extends to relations between communities. East and West Mostar are now almost entirely divided and are governed by two authorities, each with its own mayor. These authorities are understandably wary of each other and the Bosnian Croat authority in particular is unwilling to make significant efforts at reconciliation. Also, the Special Rapporteur has received reliable reports of the ongoing harassment of Muslims living in areas controlled by Bosnian Croats, including attacks and evictions. International observers state that a form of "soft ethnic cleansing" continues to result in the displacement of Muslims from West to East Mostar. In this context all initiatives towards reconciliation are welcome, including the recent demilitarization of the city and the first tentative attempts at meetings between various groups belonging to the Muslim and Bosnian Croat communities.

15. The Special Rapporteur welcomes the establishment of the European Union Administration and recognizes that it will play a crucial role in reuniting the city in accordance with the principles of human rights and justice. He notes however, that the European Union Administrator will have to continue to work very closely with other international agencies in the area including UNPROFOR Civil Affairs and Civilian Police and the Office of the United Nations High Commissioner for Refugees.

Bihac

16. During recent weeks the Bihac pocket has been an area of intensive internal conflict. The Special Rapporteur during his mission visited both parts of the pocket and met with government authorities in Bihac town (south) and with Mr. Abdic in Velika Kladusa (north). He also met with representatives of international organizations and non-governmental organizations, and visited civilian places of detention. It is clear that the situation of the civilian population is very difficult. A prevailing feeling of isolation exists, in particular in the southern, Government-controlled part.

17. The humanitarian situation within the Bihac pocket is of grave concern. In particular, the southern part has not received any humanitarian aid for almost three months. Convoys have been blocked by Krajina Serb authorities and sporadically by forces loyal to Mr. Abdic. Another blockade imposed by the Croatian displaced population at check-points in Croatia between Government-controlled territory and the UNPAs aggravates existing difficulties. The Special Rapporteur believes that effective international action is needed to prevent the occurrence of a dramatic humanitarian crisis in the southern part of the Bihac pocket.

18. The Special Rapporteur received a great deal of information indicating that serious violations of human rights were being committed in the whole region. The detailed account of those violations will be presented in his next

report. At present he would like to point out as the most urgent problem the fate of detainees. According to information obtained in northern Bihac, there are 150 prisoners of war (POWs) and 300 civilian detainees. In southern Bihac, meanwhile, there are 450 POWs and 2 civilian detainees. It is obvious that a significant number of alleged "POWs" on both sides have never engaged in any military operation; they are simply men of military age. They have been held under very difficult conditions and are being used for forced labour at the confrontation lines.

19. The Special Rapporteur was deeply shocked by his visit to the civilian detention camp in Velika Kladusa. During the visit he had an opportunity to speak with many of the detainees. They are being held without charge and many were able to exhibit court documents either setting a limit on their detention (with expiry dates long past) or ordering their release. The prisoners are held in buildings not fit for human habitation and which lack basic amenities such as sanitation, proper bedding and other provisions essential for the maintenance of human dignity. Among the detainees there are disabled and injured people urgently in need of and not receiving medical care. Many detainees have been subjected to mistreatment by their guards. Detainees are being sent for days at a time to engage in forced labour, sometimes close to confrontation lines.

20. The very existence of the detention camp, as well as the appalling conditions therein, are wholly unacceptable. Both the fact of detention and the treatment of these detainees violate fundamental standards of international human rights law. Immediately after his visit, the Special Rapporteur sent an urgent appeal to Mr. Abdic demanding the immediate release of all civilian detainees.

Activities of international agencies and organizations

21. Throughout his mission the Special Rapporteur has observed the vital work of international agencies and organizations including UNPROFOR (both its Civil and military components), the International Committee of the Red Cross (ICRC), the European Community Monitoring Mission (ECMM) and the Office of the United Nations High Commissioner for Refugees (UNHCR). It is clear that the Federation could not have been implemented without their active assistance and ongoing supporting activities. Typically, it is international agencies which take the initiatives for inter-community dialogue and negotiation, and they frequently facilitate such communication and take on the continuing role of overcoming obstructions and misunderstanding. This task is an enormous but essential one and the Special Rapporteur wishes it to be fully acknowledged and given all possible support - its withdrawal would gravely compromise the hopes for success of the Federation.

Areas under the control of Bosnian Serb forces

22. The Special Rapporteur did not visit areas under the control of Bosnian Serbs. However, while in Sarajevo he received reliable reports of ongoing "ethnic cleansing" in areas under their control. In particular, reports were received from such locations such as Prijedor, Rogatica, Bijeljina and Banja Luka. The practice of ethnic cleansing is unreservedly condemned. While in Sarajevo the Special Rapporteur was also made aware of the blocking by Bosnian Serb forces of medical evacuations from Gorazde, thus endangering the lives of some 34 people. He immediately issued an urgent public appeal on the matter.

The Former Yugoslav Republic of Macedonia

23. During his mission of three days to The Former Yugoslav Republic of Macedonia, the Special Rapporteur conducted meetings with the highest national authorities, including the President of the Republic, Mr. Gligorov; the Prime Minister, Mr. Crvenkovski; the speaker of the Parliament; and the Ministers of Interior, Justice and Foreign Affairs. He also had discussions with

representatives of international organizations, non-governmental organizations and religious leaders.

24. The Special Rapporteur is of the opinion that various steps have been undertaken in order to improve the human rights situation in the country. Nevertheless, the situation is still not satisfactory. Mainly due to the slow legislative process, effective legal means for the protection of human rights still do not exist.

25. The country is in a very difficult economic situation which seriously hampers implementation of the economic and social rights of its citizens. There are various reasons for that situation. The most important is the effects of international sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) and the economic embargo imposed by Greece. These external factors contribute significantly to the economic crisis and therefore create conditions for serious social tensions. Under such circumstances, the process of creating a civic society involves serious difficulties.

26. The Special Rapporteur believes that effective international assistance is urgently needed in order to remove or alleviate these external factors. In particular, the country should receive adequate compensation for losses connected with sanctions. The embargo must be lifted and the country should receive equal treatment of its applications to join various international organizations. These steps will contribute to the stability of the political and economical situation of the country and will create the necessary conditions for more effective protection of human rights.

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